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Board of Zoning Appeals

601 Lakeside Avenue, Room 516

Cleveland, Ohio 44114-1071

[Http://planning.city.cleveland.oh.us/bza/cpc.html](http://planning.city.cleveland.oh.us/bza/cpc.html)

216.664.2580

JULY 1, 2019

RES JUDICATA

9:30

Calendar No. 19-113: 12710 Miles Avenue

**Ward 2
Kevin L. Bishop
20 Notices**

Pursuant to Rule XIII of the Rules of the BZA this appeal is considered a “refiling”, as an identical appeal was heard and denied by the Board on August 31, 2015 in Calendar Number 15-165. This case must be dismissed unless the appellant can present evidence to justify the denial of the application of *res judicata*, including substantially changed circumstances, substantial new relevant evidence that was not available at the hearing on the prior appeal, or that the application of *res judicata* would create manifest injustice.

Bad Ran LLC., owner, proposes to establish use as Motor Vehicle Sales Facility and Motor Vehicle Service Garage in a B1 Two-Family Residential District. The owner appeals for relief from the strict application of the following sections of the Cleveland Codified Ordinances:

1. Section 337.03 which states that Motor Vehicle Sales Facility and Motor Vehicle Service Garage is not permitted in a Two-Family Residential District. Both uses are first permitted in General Retail Business per Section 343.11(b)(2)(I)
2. Section 352.08-352.12 which state that a 10 foot wide landscaped transition strip providing at least 75% year round opacity is required where lot abuts residentially zoned properties. A 4 foot wide frontage strip is required where lot abuts streets. No landscaping is proposed.
3. Section 359.02 which states that A nonconforming use of a building or premises which has been discontinued shall not thereafter be returned to such nonconforming use. This section also states that a nonconforming use shall be considered discontinued: (1)When the intent of the owner to discontinue the use is express; or (2)When the use is voluntarily discontinued for six (6) months or more. The intent to voluntarily discontinue a use may be implied from acts or the failure to act, including, but not limited to, the removal of and failure to replace the characteristic equipment and furnishings; or (3)The cessation of business operations for two (2) years or more unless the cessation of business operations was caused by factors out of the control of the business such as the disability or illness of the proprietor or governmental action unrelated to the behavior of the business. If the business operations have ceased for more than two (2) years, the presence of characteristic equipment and furnishings is not relevant; or (4)When it has been replaced by a conforming use; or (5)When it has been changed to another use under permit from the Board of Zoning Appeals. Filed May 22, 2019)

9:30

Calendar No. 19-114:

5008 Herman Ave.

Ward 15

Matt Zone

Marcel Albota, owner, proposes to erect a two story garage and workroom addition to existing single family residence in a B1 Two-Family Residential District. The owner appeals for relief from the strict application of the following sections of the Cleveland Codified Ordinances:

1. Section 357.09(b)(2)(B) which states that in a Two-Family Residential District no interior side yard, shall be less than five feet in width for a corner lot, nor less than three feet in width for an interior lot, nor shall the aggregate width of side yards on the same premises be less than ten feet. However, the width of any such interior side yard shall in no case be less than one-fourth $\frac{1}{4}$ the height of the main building on the premises. The required side yard is approximately 6 feet 8 inches and 1 foot 4 inches are proposed.
2. Section 357.09(b)(2)(A) which states that no building shall be erected less than ten feet from a main building on an adjoining lot. Distance to main building on adjoining lot is approximately 9 feet (exact distance not provided).
3. Section 357.15 which states that the distance between front and rear residence shall be no less than 40 feet and a 0' yard is proposed. (Filed May 23, 2019)

9:30

Calendar No. 19-115:

5010 Herman Ave.

Ward 15

Matt Zone

Marcel Albota, owner, proposes to erect a two story garage, sunroom and bedroom addition to existing single family residence in a B1 Two-Family Residential District. The owner appeals for relief from the strict application of the following sections of the Cleveland Codified Ordinances:

1. Section 357.09(b)(2)(B) which states that in a Two-Family Residential District no interior side yard, shall be less than five feet in width for a corner lot, nor less than three feet in width for an interior lot, nor shall the aggregate width of side yards on the same premises be less than ten feet. However, the width of any such interior side yard shall in no case be less than one-fourth $\frac{1}{4}$ the height of the main building on the premises. The required side yard is approximately 6 feet 8 inches and 3 feet 6 inches are proposed.
2. Section 357.09(b)(2)(A) which states that no building shall be erected less than ten feet from a main building on an adjoining lot. Distance to main building on adjoining lot is approximately 7 feet (exact distance not provided).
3. Section 357.15 which states that the distance between front and rear residence shall be no less than 40 feet and a 0' yard is proposed. (Filed May 23, 2019)

9:30

Calendar No. 19-117:

2036 West 38 Street

Ward 3

Kerry McCormack

Ruby Kumar, owner, proposes to create 4 concrete parking spaces and new drive apron to existing single family The owner appeals for relief from the strict application of the following sections of the Cleveland Codified Ordinances:

1. Section 337.23(a) which states that all parking spaces shall be located on rear half of lot at 60 feet.
2. 349.05(a) which states that no parking space shall be located within 10 feet of any wall of a residential building that contains ground floor windows.
3. Section 349.07(c)(1) which states that only one such driveway shall be permitted for each 100 feet of frontage of the lot providing such parking spaces. (Filed May 24, 2019)

9:30

Calendar No. 19-119:

2328 Holmden Ave.

Ward 14

Jasmine Santana

Sotre Properties, owner, proposes to erect a 2 story gambrel roof attached garage and mudroom to existing two family residence in a C1 Multi-Family Residential District. The owner appeals for relief from the strict application of Section 357.09(2)(C) which states that the required interior side yard is 8 feet and the appellant is proposing 4 feet 6 inches. (Filed May 28, 2019)

9:30

Calendar No. 19-122:

14124 Berwyn Ave.

Ward 16

Brian Kazy

Tim Carter, owner, proposes to construct a new 10' x 21' front porch/deck in an A1 One-Family Residential District. The owner appeals for relief from the strict application of Section 357.13(b)(4) which states that open porticos or porches (deck) shall not project more than 6 feet and the proposed deck projects 10 feet into front yard setback. (Filed May 30, 2019)

9:30

Calendar No. 19-123:

10801 Grandview Ave.

Ward 6

Blaine A. Griffin

Greater Cleveland Habitat for Humanity proposes to erect a 1 and ½ story single family residence with a detached garage on a Cuyahoga County Land Bank Lot in a B1 Two-Family Residential District. The applicant appeals for relief from the strict application of the following sections of the Cleveland Codified Ordinances:

1. Section 337.23(a) which states that accessory garages shall not be less than 18 inches from all property lines and the appellant is proposing zero and 6 inches plus 1 inch for the roof eaves.
2. Section 341.02(b) which states that City Planning approval is required prior to the issuance of a building permit.(Filed May 30, 2019)

9:30

Calendar No. 19-124:

10805 Grandview Ave.

Ward 6

Blaine A. Griffin

Greater Cleveland Habitat for Humanity proposes to erect a 1 and ½ story single family residence with a detached garage on a Cuyahoga County Land Bank Lot in a B1 Two-Family Residential District.

The applicant appeals for relief from the strict application of the following sections of the Cleveland Codified Ordinances:

1. Section 337.23(a) which states that accessory garages shall not be less than 18 inches from all property lines and the appellant is proposing zero and 6 inches plus 1 inch for the roof eaves.
2. Section 341.02(b) which states that City Planning approval is required prior to the issuance of a building permit.(Filed May 30, 2019)

9:30

Calendar No. 19-125:

10823 Grandview Ave.

Ward 6

Blaine A. Griffin

Greater Cleveland Habitat for Humanity proposes to erect a 1 and ½ story single family residence with a detached garage on a Cuyahoga County Land Bank Lot in a B1 Two-Family Residential District. The applicant appeals for relief from the strict application of the following sections of the Cleveland Codified Ordinances:

1. Section 337.23(a) which states that accessory garages shall not be less than 18 inches from all property lines and the appellant is proposing zero and 6 inches plus 1 inch for the roof eaves.
2. Section 341.02(b) which states that City Planning approval is required prior to the issuance of a building permit.(Filed May 30, 2019)

9:30

Calendar No. 19-126:

10907 Grandview Ave.

Ward 6

Blaine A. Griffin

Greater Cleveland Habitat for Humanity proposes to erect a 1 and ½ story single family residence with a detached garage on a Cuyahoga County Land Bank Lot in a B1 Two-Family Residential District. The applicant appeals for relief from the strict application of the following sections of the Cleveland Codified Ordinances:

1. Section 337.23(a) which states that accessory garages shall not be less than 18 inches from all property lines and the appellant is proposing zero and 6 inches plus 1 inch for the roof eaves.
2. Section 341.02(b) which states that City Planning approval is required prior to the issuance of a building permit.(Filed May 30, 2019)

9:30

Calendar No. 19-128:

18105 Marcella Rd.

Ward 8

Michael Polensek

Layla Kimbro, owner, proposes to install approximately 35 linear feet of 7 feet high privacy fence in an A1 One-Family Residential District. The applicant appeals for relief from the strict application of Section 358.04(a) of the Cleveland Codified Ordinances which states that fences in actual rear yards and in actual interior side yards shall not exceed six feet in height and may be solid or open. No fence shall be higher than its distance from a residence building on an adjoining lot or from the permitted placement of future residence on such lot, if such fence will be generally parallel to and adjacent to the closest wall of the residence. (Filed May 31, 2019)

